

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

JORGE DURAN-QUEZADA, ET AL.

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v.

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Civil No. – JFM-13-2963

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CLARK CONSTRUCTION GROUP, ET AL.

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MEMORANDUM

Plaintiffs have brought this action against Clark Construction Group, LLC, Balfour Beatty Construction, LLC, and Manganaro MidAtlantic, LLC asserting claims under the Davis-Bacon Act, the Contract Work Hours and Safety Standards Act, the Fair Labor Standards Act, and state wage and hour laws. Defendants have filed a motion to dismiss. The motion will be granted.

The Davis-Bacon Act, the Contract Work Hours and the Safety Standards Act, do not create a private right of action. *See Bane v. Radio Corp of Am.*, 811 F.2d 1504 (4th Cir. 1987) (unpublished); *United States f/b/o Glynn v. Capeletti Bros, Inc.*, 621 F.2d 1309 (5th Cir. 1980); *Sopena v. Colejon Corp.*, 920 F. Supp. 259, 265 (D. Puerto Rico 1996). Likewise, plaintiffs have cited no authority to support the proposition that they have a claim under the Copeland Anti-Kickback Act, and they have not cited any factors to overcome what has been referred to as the understandable reluctan[ce] of courts to infer that any such private right of action exists. *See Central Bank of Denver, N.A. v. First Interstate Bank of Denver, N.A.*, 511 U.S. 164, 190 (1994).

To the extent that plaintiffs allege that they have a private right of action under the Davis-Bacon Act because they filed an unsuccessful administrative complaint, their argument fails. Any remedy that they have to overcome the Department's decision lies in the regulatory realm.

Any claims that plaintiffs may have under the Fair Labor Standards Act for overtime are barred by limitations. Moreover, to the extent that they seek to assert a claim under the Fair Labor Standards Act or under state law, they are inappropriately using those statutes to end run the absence of a private right of action under the governing federal statutes.

A separate order granting defendant's motion is being entered herewith.

Date: December 20, 2013

/s/
J. Frederick Motz
United States District Judge